

# Court of Appeals, State of Michigan

## ORDER

People of MI v Mark Anthony Porter

Docket No. 298474

LC No. 09-000365-FC

David H. Sawyer  
Presiding Judge

William B. Murphy, C.J.

Jane M. Beckering  
Judges

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED. This matter is REMANDED to permit defendant-appellant to move for a new trial and the trial court to conduct an evidentiary hearing to determine whether trial counsel rendered ineffective assistance of counsel, *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1993), and whether any of the deliberating jurors saw the shackles worn by defendant-appellant during trial, *People v Davenport*, 488 Mich 1054; 794 NW2d 616 (2011); *Rhoden v Rowland*, 10 F3d 1457, 1460 (CA 9, 1993). The Court retains jurisdiction and the time for proceeding with the appeal in this Court shall begin to run upon issuance of an order in the trial court that disposes of the post-conviction proceedings.

Defendant-appellant shall file with this Court a copy of any motion and supporting brief filed in the trial court within 14 days after the Clerk's certification of this order. Defendant-appellant shall also file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry. The trial court shall hear and decide the matter within 56 days after the Clerk's certification of this order. The trial court shall make findings of fact and a determination on the record and cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

Defendant-appellant may file a supplemental brief pertaining to the issues raised on remand within 21 days after entry of the trial court's order deciding the matter or 21 days after the transcript of the hearing is filed, whichever is later. Appellee may file a supplemental brief in response.

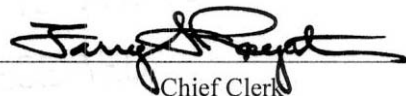
The time for proceeding with the appeal shall begin to run 14 days after the date this order is certified if the motion to initiate the post-conviction proceedings is not filed in the trial court within that 14-day period.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 10 2012

Date

  
Chief Clerk